

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

<b>CLIFTON D. COX, JR.,</b>	)	<b>CASE NO. 8:06CV370</b>
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	<b>MEMORANDUM</b>
	)	<b>AND ORDER</b>
	)	
<b>WAL-MART STORES,</b>	)	
	)	
<b>Defendant.</b>	)	

This matter is before the court sua sponte regarding Case No. 8:05cv473 and Case No. 8:06cv370.

Upon investigation of the court's records, the court has determined that the plaintiff filed two complaints which initiated the cases listed above. The cases have overlapping defendants and involve the same subject matter, *i.e.*, the defendants' alleged failure to promote the plaintiff as a result of his race. Case No. 8:06cv473 is assigned to the docket of District Judge Richard G. Kopf.

"Plaintiffs may not pursue multiple federal suits against the same party involving the same controversy at the same time." Missouri ex rel. Nixon v. Prudential Health Care Plan, Inc., 259 F.3d 949, 954 (8th Cir. 2001); *see also* Curtis v. Citibank, N.A., 226 F.3d 133, 138-39 (2d Cir. 2000). Because Case No. 8:05cv473 is the earliest filed case the plaintiff must consolidate all legal theories relating to that subject matter into that action. Consequently, this case will be dismissed without prejudice, and the plaintiff may continue with his claims in Case No. 8:05cv473.

THEREFORE, IT IS ORDERED:

1. That the above-entitled case is dismissed without prejudice;
2. That all pending motions are denied as moot; and
3. That a separate judgment will be entered in accordance with this

Memorandum and Order.

DATED this 24<sup>th</sup> day of May, 2006.

BY THE COURT:

s/Laurie Smith Camp  
United States District Judge